

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JAMES FRANKLIN SNYDER,

Plaintiff,

vs.

SHARON FELTON, NICOLE
BRUNER, BRIAN CLEMENT and
AARON COLE,

Defendants.

NO. CV-10-5141-EFS

**ORDER DISMISSING ACTION FOR
FAILURE TO COMPLY WITH FILING FEE
REQUIREMENTS**

By Order filed March 17, 2011, the Court directed Mr. Snyder, formerly a prisoner at the Benton County Jail and now residing in Newport, Washington, to complete and file a financial affidavit as required by 28 U.S.C. § 1915(a)(1). Due to Mr. Snyder's release from incarceration, there is no mechanism for collecting the filing fee in partial payments under 28 U.S.C. § 1915(b)(2). In the alternative, the Court directed Mr. Snyder to pay the full \$350.00 filing fee.

The Court admonished Mr. Snyder that failure to comply would result in dismissal of this case for failure to prosecute. He did not comply and has filed nothing further in this action.

"Pursuant to Federal Rule of Civil Procedure 41 (b), the district court may dismiss an action for failure to comply with any order of the court." *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260 (9th Cir. 1992). The district court should consider five factors when deciding whether to

1 dismiss a case for failure to obey a court order:

2 (1) The public's interest in expeditious resolution of
3 litigation; (2) the court's need to manage its docket; (3) the
4 risk of prejudice to the defendants; (4) the public policy
favoring disposition of cases on their merits; and (5) the
availability of less drastic alternatives.

5 *Id.* at 1260-61 (citations omitted).

6 The first two factors weigh in favor of dismissal. The Court's and
7 the public's interests are both served by a quick resolution of civil
8 rights litigation. The third factor also favors dismissal. Defendants
9 will not be prejudiced if the claims are dismissed because Defendants
10 have not yet been served. Only the fourth factor arguably weighs
11 against dismissal. However, despite the Court's instructions, Mr.
12 Snyder has not complied with the filing fee requirements of 28 U.S.C. §§
13 1914(a) or 1915(a)(1). As for the fifth factor, the only less drastic
14 alternative would be to allow Plaintiff yet more time to comply. Mr.
15 Snyder, however, has already had more than six weeks to follow the
16 Court's directive and failed to do so. Allowing a further extension
17 would frustrate the purpose of the first two factors; therefore, the
18 fifth factor favors dismissal. On balance, the four factors that favor
19 dismissal outweigh the one that does not. *Ferdik*, 963 F.2d at 1263
20 (citing *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 133 n.2 (9th Cir.
21 1987) (four factors heavily supporting dismissal outweigh one against
22 dismissal)).

23 Accordingly, **IT IS HEREBY ORDERED:** this action is **DISMISSED WITHOUT**
24 **PREJUDICE** for failure to obey an Order of this Court to comply with the
25 statutory filing fee requirements.

26 **IT IS SO ORDERED.** The District Court Executive is directed to
27
28 ORDER DISMISSING ACTION -- 2

1 enter this Order and forward a copy to Mr. Snyder at the Newport,
2 Washington, address, enter judgment, and close the file. The Court
3 certifies any appeal of this dismissal would not be taken in good faith.

4 **IT IS SO ORDERED.** The District Court Executive is directed to file
5 this Order and provide copies of this Order to counsel.

6 **DATED** this 10th day of May 2011.

7
8 S/ Edward F. Shea
9 EDWARD F. SHEA
United States District Judge

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